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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,169	05/22/2007	Michael Luke Tunmer	051037	1924
23696 7590 09/21/2011 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
			EXAMINER HAMMONDS, MARCUS C	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 09/21/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

### Office Action Summary

**Application No.**

10/598,169

**Applicant(s)**

TUNMER ET AL.

**Examiner**

MARCUS HAMMONDS

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-27 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-27 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/c3)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 03, 2010 has been entered. Claims 1-27 are currently pending and an Office action on the merits follows.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. **Claims 8 and 15-20** are rejected under 35 U.S.C. § 101 because the claim invention is not supported by a process, machine, manufacture, or composition of matter. In the state of the art, transitory signals are commonplace as a medium for transmitting computer instructions, i.e. a data carrier. Therefore, in the absence of any evidence to the contrary and given a broadest reasonable interpretation, the scope of a "a data carrier" covers a signal per se. A transitory signal does not fall within the definition of a process, machine, manufacture, or composition of matters, and is non-statutory for that reason.

The examiner suggests amending the claim to state “A non-transitory, tangible data carrier...” to overcome the rejection under 35 U.S.C. § 101. See Official Gazette Notice 1351 OG 212, dated February 23, 2010.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 8 and 15-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim elements “means for receiving content data, wherein the content data comprises metadata; means for processing the received content data to form a user interface for the device; means for accessing content data updates in accordance with the content data metadata” is a limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. The specification fails to clearly define which structural component of which device within the system show in Fig. 1 explicitly performs each the functions explained in claim.

Applicant may:

- (a) Amend the claim so that the claim limitation will no longer be interpreted as a limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification and linked or associated to the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-27** are rejected under 35 U.S.C. 102(b) as being anticipated by **WO 01/61508 A1 (herein “Ramos”)**.

**Consider claim 1, Ramos teaches** A method of receiving content data for a user interface of a device (**see Ramos page 11 line 4 - page 13 line 22**), the method comprising:

receiving, by a device (**see Ramos page 42 line 11 – page 44 line 24, Fig 7, note computer 1220**), content data for a user interface from a communications interface (**see Ramos col. 4 lines 29-30, Fig. 3, Fig. 7 note watermarked media objects such as an image, video, audio on user interface 300 via the Internet**);

processing the received content data to form a user interface for the device (**see Ramos page 11 line 5 – page 13 line 22, specifically presenting a visual representation of the media**

**objects such as a thumbnail**), wherein the content data comprises metadata (see **Ramos col. 4 line 29 - col. 5 line 7, note watermark can associate the media object with metadata**); and  
accessing content data updates via the communications interface in accordance with the content data metadata (see **Ramos page 23 lines 24-30 which explain updating the watermarked media objects from a metadata server periodically**).

**Consider claim 2, Ramos teaches** A method according to claim 1, wherein the metadata comprises an address for content data updates and the device accesses the content data updates located at the address (see **Ramos page 20, lines 16-17, note address and pointer**).

**Consider claim 3, Ramos teaches** A method according to claim 1, wherein the metadata comprises a first address and the device queries the first address to obtain a second address, the device accessing the content data updates located at the second address (see **Ramos page 20, lines 16-17, note address and pointer. Also see Ramos page 23 lines 24-30, note LDAP to metadata server**).

**Consider claim 4, Ramos teaches** A method according to claim 3, wherein the first address locates a database, the database comprising addresses for a plurality of content data updates (see **Ramos page 19 lines 24-30, note extracting metadata from different sources**).

**Consider claim 5, Ramos teaches** A method according to claim 1, wherein the metadata comprises data which determines the frequency at which the device accesses content data updates (see **Ramos page 23 lines 24-30, note periodic updates at predetermined times**).

**Consider claim 6, Ramos teaches** A method according to claim 1, wherein the metadata comprises data which defines events that cause the device to access content data updates (see **Ramos page 23 lines 24-30, note periodic updates at predetermined times**).

**Consider claim 7, Ramos teaches** A method according to claim 1, wherein the content data updates accessed by the device are received via the communications interface, processed by the device and used to update the device user interface (**see Ramos page 23 lines 24-30, note updates**).

**Consider claims 8, 9, and 21**, claims 8, 9, and 21 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 1 above.

**Consider claims 10, 15, 22**, claims 10, 15, and 22 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 2 above.

**Consider claims 11, 16, 23**, claims 11, 16, and 23 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 3 above.

**Consider claims 17, 24**, claims 17 and 24 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 4 above.

**Consider claims 12, 18, 25**, claims 10, 15, and 22 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 5 above.

**Consider claims 13, 19, 26**, claims 13, 19, and 26 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 6 above.

**Consider claims 14, 20, 27**, claims 14, 20, and 27 have limitations similar to those treated in the above rejection(s) and are met by the references as discussed in claim 7 above.

***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS HAMMONDS whose telephone number is (571) 270-

3193. The examiner can normally be reached on 8:30AM-6:00PM Monday-Thursday and 8:30AM-5:00PM 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kent Chang can be reached on (571) 272-7667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MARCUS HAMMONDS/  
Examiner, Art Unit 2617

/Kent Chang/  
Supervisory Patent Examiner, Art Unit 2617